

Before the
Federal Communications Commission
Washington, DC 20554

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In the Matter of)
)
Request for Review of the Decision of the)
Universal Service Administrator by)
)
Bienville Parish School Board) File Nos. SLD-220710, 226869
Arcadia, Louisiana)
)
Federal-State Joint Board on) CC Docket No. 96-45
Universal Service)
)
Changes to the Board of Directors of the) CC Docket No. 97-21✓
National Exchange Carrier Association, Inc.)

ORDER**Adopted: September 19, 2002****Released: September 20, 2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed Bienville Parish School Board (Bienville), Arcadia, Louisiana, seeking review of two decisions issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ Bienville seeks review of SLD's denial of its applications for discounts under the schools and libraries universal service support mechanism.² For the reasons set forth below, we deny Bienville's Request for Review.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Administrator a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.⁴ Once the applicant has

¹ Letter from William Britt, Bienville Parish School Board, to Federal Communications Commission, filed December 5, 2001 (Request for Review).

² *Id.* Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ 47 C.F.R. §§ 54.502, 54.503.

⁴ 47 C.F.R. § 54.504 (b)(1), (b)(3).

complied with the Commission's competitive bidding requirements and signed a contract for eligible services, it must file an FCC Form 471 to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has signed the contract, and an estimate of funds needed to cover the discounts to be given for eligible services.⁵ Using information provided by the applicant in its FCC Form 471, the Administrator determines the amount of discounts for which the applicant is eligible.

3. SLD utilizes what it calls "Minimum Processing Standards" to facilitate the efficient review of the thousands of applications requesting funding.⁶ Minimum Processing Standards require applicants to provide at least the basic data necessary for SLD to initiate review of the application under statutory requirements and Commission rules. When an applicant submits a FCC Form 471, SLD performs an initial visual inspection of applications it receives to determine if they have omitted items required by the Minimum Processing Standards. In such a case, SLD automatically returns the application to the applicant without considering the application for discounts under the program.⁷ Both the Minimum Processing Standards and the automatic return for failure to comply procedure are explained in a document available on SLD's website, from SLD's fax-on-demand service, and from SLD customer services representatives at its toll-free number.⁸ In all Funding Years, the Minimum Processing Standards require applicants to submit the required information on the form corresponding to that Funding Year.⁹

4. If an application is rejected for failure to meet Minimum Processing Standards, the applicant can submit a corrected application. However, the complete corrected application must be received by SLD within the filing window for the application to be treated as an in-window application. If the applicant fails to submit a corrected application within the window, the applicant will be subject to different funding priorities and may not receive any funding if there are insufficient funds remaining to satisfy demand by out-of-window applicants.

5. In Funding Year 2001,¹⁰ applicants were able to file their FCC Forms 471 electronically on the Administrator's website.¹¹ Applicants electing to file electronically were

⁵ 47 C.F.R. § 54.504(c).

⁶ 47 C.F.R. § 54.504(c); see SLD website, "Form 471 Minimum Processing Standards and Filing Requirements for Funding Year [2001]," <<http://www.sl.universalservice.org/reference/471mps.asp>> (Minimum Processing Standards).

⁷ Minimum Processing Standards.

⁸ Minimum Processing Standards.

⁹ Minimum Processing Standards.

¹⁰ Previously, this funding period was referred to as Funding Year 4. Funding years are now described by the year in which the funding period starts. Thus the funding period which begins on July 1, 2001 and ends on June 30, 2002, previously referred to as Funding Year 4, is now called Funding Year 2001. The funding period which begins on July 1, 2002 and ends on June 30, 2003 is now known as Funding Year 2002, and so on.

¹¹ See SLD's website <http://www.sl.universalservice.org>. See also Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (Funding Year 2001 FCC Form 471), OMB 3060-0806 (October 2000).

required to enter the information required in Blocks 1-5 directly onto the online application and print out a system-generated Block 6, the signature certification page. Applicants were required to mail Block 6 to SLD, postmarked by the close of the filing window.¹²

6. On January 16, 2001, Bienville electronically submitted two Funding Year 2001 FCC Forms 471 to SLD.¹³ Bienville mailed its Block 6 certifications to SLD.¹⁴ However, instead of using the system generated Block 6 certifications, Bienville used an older version of the form that it had previously printed out.¹⁵

7. SLD issued Rejection Letters to Bienville for both of its applications.¹⁶ SLD stated that Bienville's applications failed to meet Minimum Processing Standards.¹⁷ Specifically, SLD informed Bienville that the FCC Forms 471 certifications submitted were not the correct OMB-approved forms for Funding Year 2001.¹⁸

8. Bienville filed an appeal with SLD stating that its only error was that the required information was provided on a form that had recently been updated by SLD.¹⁹ Bienville stated that it had provided the necessary information on the "1999 form" for SLD to process its funding request.²⁰ Bienville attached the correct versions of the Block 6 certification to its appeal.

9. SLD denied Bienville's appeal.²¹ SLD reasserted that the lower right hand corners of the Block 6 certifications submitted showed September 1999 instead of the correct date October 2000 for Funding Year 2001.²² SLD explained that pursuant to program rules, the FCC Form 471 is deemed received when it has the required information necessary to pass Minimum

¹² *Id.*

¹³ FCC Forms 471, Bienville Parish School District, filed January 16, 2001.

¹⁴ *Id.*

¹⁵ Request for Review.

¹⁶ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Danny Gour, Bienville Parish School District, dated August 2, 2000, and Letter from Schools and Libraries Division, Universal Service Administrative Company, to Danny Gour, Bienville Parish School District, dated August 2, 2001 (Rejection Letters).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Letter from William Britt, Bienville Parish School Board, to Letter from Schools and Libraries Division, Universal Service Administrative Company, filed August 29, 2001.

²⁰ *Id.*

²¹ Letter from Schools and Libraries Division, Universal Service Administrative Company, to William Britt, Bienville Parish School Board, dated October 8, 2001; and Letter from Schools and Libraries Division, Universal Service Administrative Company, to William Britt, Bienville Parish School Board, dated November 5, 2001 (Administrator's Decisions on Appeal).

²² *Id.*

Processing Standards. SLD concluded that Bienville's applications did not meet these standards and returned them to Bienville. Because the Block 6 certification pages were submitted on the incorrect OMB-approved forms for Funding Year 2001, SLD returned them to Bienville.²³

10. In response Bienville filed the instant Request for Review with the Commission.²⁴ Bienville explains that SLD rejected its FCC Form 471 because the Block 6 certifications were not submitted on the updated October 2000 form for Funding Year 2001.²⁵ Bienville asserts that this "minor deviation" should not cause the denial of eligible discounts. Bienville states that according to program rules for Funding Year 2001, applicants could begin preparing their applications as early as July 1, 2000. Bienville stated that its forms were printed and preliminary information was inputted during the early part of the funding period.²⁶ Bienville maintains that SLD made revisions to Block 6 in October 2000, four months after the start of the funding year, and applications should not be denied when SLD changed the requirements at such a late date.²⁷ Bienville states that the certification page is only used to verify the identity of the applicant since applicants may now enter a Personal Identification Number (PIN), eliminating the need to submit the written signature page.²⁸ Bienville states that this change is evidence that the submission of an online FCC Form 471 is considered acceptance of all the conditions enumerated in the online Block 6. Bienville states that it attempted to comply with program rules and allowing it to submit an updated certification page will not create any undue burden.

11. Bienville's primary argument is that the Funding Year 2000 Block 6 certification page is fundamentally the same as the Funding Year 2001 Block 6, thus no harm results from accepting the incorrect form. We disagree. As a preliminary matter we note that the Wireline Competition Bureau (formerly known as the Common Carrier Bureau) has upheld the Minimum Processing Standard that requires applicants to use the correct form.²⁹ In the *Fairlawn Order*, the Bureau stated that FCC Form 471 application and instructions are funding year specific,³⁰ and each set of instructions provides item-by-item instructions to the corresponding form. Further, the instructions encourage applicants to reference the SLD website, to obtain guidance

²³ *Id.*

²⁴ Request for Review.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Request for Review of the Decision of the Universal Service Administrator by Fair Lawn Board of Education Fair Lawn, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association*, CC Docket No. 96-45 and 97-21, Order, 16 FCC Rcd 12901 (Com. Car. Bur. 2001) (*Fair Lawn Order*).

³⁰ See generally Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (Funding Year 2000 FCC Form 471), OMB 3060-0806 (September 1999); Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (Funding Year 2001 FCC Form 471), OMB 3060-0806 (October 2000).

material from SLD's fax-on-demand service, or to contact SLD's Client Service Bureau for assistance with the application process.³¹ Specifically, the website instructions for completing FCC Form 471 for Year 2001 provide that each form must be a "correct OMB-approved FCC Form 471, with a date of October 2000 in the lower right-hand corner."³² We are not persuaded by Bienville's argument that the versions of Block 6 are virtually identical. In fact, Block 6 of the Year 2001 FCC Form 471 required the applicants to make additional certifications than Block 6 of the Year 2000 FCC Form 471.³³ Thus, we find no reason to depart from the Bureau's prior finding that use of the correct form is an appropriate Minimum Processing Standard.

12. We also affirm SLD's decision not to allow Bienville to supplement its application by submitting the correct certifications after the close of the filing window. Applicants are not permitted to make new funding requests after a funding decision or after the closure of the filing window deadline.³⁴ If applicants were permitted to amend by adding new requests after errors had led to a funding denial, it would eliminate any incentive for them to avoid such mistakes in their original application. This would significantly increase the overall administrative cost of reviewing and processing applications and would result in fewer schools and libraries being funded. It would also prejudice those applicants who properly completed their applications and accurately described their funding requests. Moreover, permitting applicants to amend their requests after the window closed could jeopardize SLD's ability to accurately apply the rules of priority in years where requests for funding exceed the annual funding cap.

13. Bienville also raises several other arguments in support of its appeal. We address each argument in turn and in so doing, find no basis to grant relief to Bienville. Bienville states that SLD made revisions to Block 6 in October 2000, four months after the start of the funding year, and applications should not be denied when SLD changed the requirements at such a late date.³⁵ It is administratively appropriate for SLD to require applicants to adhere to applicable program rules and application requirements.³⁶ It is incumbent upon applicants to determine

³¹ *Id.*

³² Universal Service Administrative Company, Schools and Libraries Program, Reference Area: Form 471 Minimum Processing Standards and Filing Requirements, <<http://www.sl.universalservice.org/reference/471mps.asp>>.

³³ For example, in Funding Year 2001, applicants were also required to certify that they would make available to the Administrator any worksheets or records if the applicant was audited. Compare Funding Year 2001 FCC Form 471 at Block 6 with Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (Funding Year 2000 FCC Form 471) at Block 6.

³⁴ The Commission's rules require that applicants file a completed Form 471 by the filing window deadline to be considered pursuant to the funding priorities for "in-window" applicants. 47 C.F.R. §§ 54.504(c); 54.5079(c).

³⁵ *Id.* We note that Bienville's assertion is incorrect. As stated *supra*, Funding Year 2001 began on July 1, 2001 and ended on June 30, 2002. The relevant FCC Form 471 was revised in October 2000, more than seven months before the opening of the Funding Year 2001 filing window.

³⁶ See generally Universal Service Administrative Company (USAC), Schools and Libraries Program, Reference Area: Form 471 Minimum Processing Standards and Filing Requirements, <<http://www.sl.universalservice.org/reference/471mps.asp>> (outlining the manual and online filing requirements for FCC Form 471).

whether their applications are in compliance with program requirements prior to filing. Because applications may change from year to year, applicants bear the responsibility of determining whether or not the correct form is being used. Bienville should have determined that it was using the wrong application.

14. Bienville further asserts that SLD inconsistently applies the Block 6 review, citing to “Tallulah Academy.”³⁷ Review of the *Tallulah Order* reveals that the Block 6 review is consistently applied.³⁸ Tallulah filed two FCC Forms 471 in Funding Year 2001, both of which included the wrong OMB-approved Block 6 certification page.³⁹ Tallulah asserted that SLD applied its rules in an arbitrary and capricious manner because SLD denied one application for failing to meet minimum processing standards (applicant used the incorrect OMB-approved FCC Form 471 for Block 6 of the application), and denied the other, because the funding cap in Funding Year 2001 would not provide discounts for internal connections below the 85 percent discount band.⁴⁰ In the *Tallulah Order*, the Bureau concluded that the fact that SLD determined that the application should be denied on separate grounds does not necessarily establish that the applications were treated in an arbitrary and capricious manner; rather SLD had merely determined an independent basis for its denial, which was not necessarily exclusive from other equally valid grounds for denial.⁴¹

15. Bienville also maintains that it was precluded from timely submitting corrected certification pages because SLD informed Bienville that its applications had been rejected after the filing window had closed. Given the number of applications submitted to SLD, it is impractical, if not impossible, for SLD to review each application and notify applicants of errors prior to the close of the filing window. Instead, the burden of ensuring that complete and accurate information is provided on the correct forms properly rests with applicants themselves. Therefore, we uphold the Administrator’s Decisions on Appeal and deny Bienville’s Request for Review.

³⁷ Request for Review.

³⁸ See Request for Review filed by Tallulah Academy-Delta Christian School, Federal-State Board on Universal Services, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., File No. SLD-221446, CC Dockets No. 95-45 and 97-21, Order, 17 FCC Rcd 4126 (Com. Car. Bur. 2002) (*Tallulah Order*).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Tallulah Order*.

16. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Request for Review filed December 5, 2001, by Bienville Parish School Board, Arcadia, Louisiana, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



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